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9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 THEODORE PENTECOST, an Individual,

13 Plaintiff,

14 vs.

15 FRIENDLY FORD, a domestic corporation,
16 DOES I -X; ROE CORPORATIONS I -X.

17 Defendant.

CASE NO.:

COMPLAINT AND JURY DEMAND

18
19 The Plaintiff THEODORE PENTECOST (“**Mr. Pentecost**” or “**Plaintiff**”) by and
20 through his attorneys, Jenny L. Foley, Ph.D., Esq. and Rex M. Martinez of HKM
21 Employment Attorneys LLP hereby complains and alleges as follows:

22 **JURISDICTION**

23 1. This is an action for damages brought by Plaintiff for unlawful workplace
24 discrimination based on sex and for illegal retaliation under Title VII of the Civil Rights Act of
25 1964 (“Title VII”), 42 U.S.C. §2000e *et seq.*; for violation of Nevada Revised Statute §613.330
26 *et seq.*; and for certain claims brought pursuant to the Nevada Revised Statutes as outlined
27 below.

28 2. This Court has primary jurisdiction over claims set forth herein pursuant to 28

1 U.S.C. § 1331 (federal question), 28 U.S.C. §1343(a) (4) (civil rights action) and 42 U.S.C.
2 §2000e-5(f) (3) (unlawful discrimination and retaliation in employment). Additionally, this
3 Court has supplemental jurisdiction over any state law claims pled herein pursuant to 28 U.S.C.
4 §1367.

5 3. Upon information and belief, all material allegations relative to the named
6 defendant contained in this Complaint occurred in the State of Nevada, Clark County.
7 Therefore, venue properly lies in the southern division of the United States Court for the District
8 of Nevada pursuant to 28 U.S.C. §1391(b)(2).

9 4. At all relevant times, Defendant was engaged in interstate commerce and
10 employed 20 or more employees for each working day during each of the 20 or more calendar
11 workweeks in the current or preceding calendar year, and are therefore subject to the provisions
12 of the statutes outlined herein.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDY**

14 5. On or about September 12, 2019, Plaintiff initiated the process of filing a Charge
15 of Discrimination against his employer, the Defendant(s) named in this action with the Nevada
16 Equal Rights Commission and Equal Employment Opportunity Commission (“EEOC”).

17 6. On or about October 2, 2020, Plaintiff received his “Notice of Right to Sue”
18 from the EEOC.

19 7. Less than 90 days have passed since the date of mailing of the “Notice of Right
20 to Sue.” This action is timely filed pursuant to 42 U.S.C. § 2000e-5(f).

21 8. Prior to filing this action, Plaintiff exhausted his administrative remedy on all
22 claims pled hereunder.

23 **PARTIES**

24 9. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
25 fully set forth herein.

26 10. Plaintiff is a citizen of the State of Nevada and a resident of Clark County,
27 Nevada.

28 11. Defendant FRIENDLY FORD. (“**Defendant**”) is, upon information and belief,

1 a domestic corporation authorized at all relevant times to conduct business in the State of
2 Nevada.

3 12. Doe Defendants I through X inclusive and Roe Corporation Defendants A
4 through Z inclusive, are unknown at the present time and thus sued by Plaintiff in such fictitious
5 names. Plaintiff alleges that said Defendants are in some manner responsible for the damages
6 sustained by Plaintiff and that said Defendants will be named with peculiarity once their
7 identities are known. At such time, Plaintiff will seek leave of court to state more fully herein
8 the names and acts of said Defendants.

9 **GENERAL ALLEGATIONS**

10 13. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
11 fully set forth herein.

12 14. Plaintiff began working for Defendant in November 2016 as a Sales Manager.

13 15. Plaintiff was an excellent employee who was qualified for the position and
14 performed his duties satisfactorily.

15 16. Plaintiff's duties as a Sales Manager included selling cars and processing car
16 purchases as well as training and managing other sales associates to do the same.

17 17. Plaintiff never had any issues working for Defendant until General Manager Bill
18 Bosnos ("Mr. Bosnos"), for unknown reasons, began a campaign of sexual harassment against
19 Plaintiff.

20 18. Upon information and belief, Mr. Bosnos was hired as a General Manager in
21 December 2018 and worked closely with Plaintiff.

22 19. Upon information and belief, on several occasions, Mr. Bosnos would sexually
23 harass Plaintiff by making sexually explicit comments, acting out inappropriate and lewd
24 gestures, and showing pornographic material at work.

25 20. Mr. Bosnos' harassment would often take the form of ridiculing Plaintiff's
26 affinity for cleanliness.

27 21. Plaintiff kept a clean and orderly work area, would not share food with others,
28 and, in general, was cautious about spreading germs.

1 22. Upon information and belief, Plaintiff's cleanliness was something that
2 everyone knew about Plaintiff and peers would occasionally make light jokes about it.

3 23. Upon information and belief, Mr. Bosnos knew of this as well, which is
4 demonstrated by his commitment to harassing Plaintiff over it.

5 24. Mr. Bosnos' behavior can only be classified as harassment because it was sexual
6 and pervasive in nature and because Ms. Bosnos was Plaintiff's supervisor.

7 25. On multiple occasions, Mr. Bosnos would throw popcorn, other small snacks,
8 or crumbs at Plaintiff and would then ask if Plaintiff was going to eat the dirty food.

9 26. Moreover, it was often sexual in nature, as Mr. Bosnos would act out rubbing
10 his penis against the desk or area where Plaintiff was working, which is where Mr. Bosnos was
11 throwing the food.

12 27. Mr. Bosnos would ask Plaintiff if he would eat the food that had touched the
13 same place that Mr. Bosnos' penis had touched.

14 28. While asking these questions, Mr. Bosnos would often gesture to his penis
15 and/or tapping it with his finger and then tapping his finger against the desk or workspace.

16 29. One of many examples of this was on or about May 20, 2019, when Plaintiff
17 was just sitting at his desk completing his work and Mr. Bosnos came up besides his desk and
18 started making sexually explicit comments and gestures.

19 30. Mr. Bosnos told Plaintiff to be cautious while eating food at his desk because he
20 already had or was going to rub his penis over the area where Plaintiff ate lunch.

21 31. While Mr. Bosnos was close to and hovering over Plaintiff and his desk, Mr.
22 Bosnos began pointing directly at and then tapping his penis with his right index finger.

23 32. Mr. Bosnos went from pointing at and tapping his penis with his finger to
24 touching Plaintiff's desk or other belongings with that very same finger, going back and forth
25 from tapping his penis to tapping various spots of Plaintiff's workspace and belongings.

26 33. Mr. Bosnos repeated the gesture of tapping his penis and then touching
27 Plaintiff's desk and personal items multiple times during this incident.

28 34. While Mr. Bosnos was acting out rubbing his penis on Plaintiff's desk, he

1 continued making comments that Plaintiff should be careful about eating in the vicinity where
2 Mr. Bosnos had rubbed his penis.

3 35. Upon information and belief, other managers were present during this incident
4 and witnessed Mr. Bosnos make these inappropriate gestures and comments.

5 36. Furthermore, upon information and belief, this was a common sexual gesture
6 that Mr. Bosnos made and other employees had seen Mr. Bosnos perform these acts on multiple
7 occasions.

8 37. During this incident, Plaintiff did not directly engage with Mr. Bosnos'
9 behavior, but rather Plaintiff shook his head in disapproval and ignored Mr. Bosnos as best as
10 he could.

11 38. At this point, Plaintiff had become familiar with Mr. Bosnos' harassment and
12 knew that engaging Mr. Bosnos would only further the harassment, even if the engagement was
13 in protest for Mr. Bosnos to stop.

14 39. The May 20, 2019, incident was not isolated as Mr. Bosnos would constantly
15 make comments about rubbing his penis on Plaintiff's desk or work area and/or act out the
16 provocative gestures of that very act.

17 40. Upon information and belief, these comments and/or lewd gestures aimed at
18 Plaintiff would happen on a daily basis.

19 41. Plaintiff did not find this humorous, professional, or appropriate.

20 42. On or about May 30, 2019, Mr. Bosnos continued his campaign of sexual
21 harassment by trying to show Plaintiff pornographic images on his phone.

22 43. Plaintiff clearly stated that he did not want to see the pornographic pictures, but
23 Mr. Bosnos showed him the pornographic image against his protest.

24 44. Once Mr. Bosnos showed Plaintiff the pictures, Plaintiff stated that he was not
25 interested in such a thing at work.

26 45. Upon information and belief, another Sales Manager, Taylor Warf, witnessed
27 Mr. Bosnos force Plaintiff to look at the pornographic images after Mr. Bosnos had shown him
28 the same images.

1 46. On May 31, 2019, Plaintiff reported this harassment to Steve Crevling,
2 Plaintiff's supervisor, who said he would look into the matter and told Plaintiff that "It'll be
3 alright."

4 47. Although this vague statement made it sound like management was going to
5 address Mr. Bosnos' behavior, Mr. Bosnos' behavior was never addressed, and, upon
6 information and belief, Mr. Bosnos never faced any repercussions for his behavior.

7 48. Moreover, Plaintiff reported the constant harassment and retaliation to Mr.
8 Crevling.

9 49. However, it became clear to Plaintiff that both Mr. Crevling and Human
10 Resources were not going address Mr. Bosnos' behavior, and as such, they only acquiesced to
11 Mr. Bosnos' harassment and retaliation.

12 50. Plaintiff was terminated by Mr. Bosnos only a few days after reporting Mr.
13 Bosnos' sexual harassment.

14 51. As explained above, on Thursday May 30, Mr. Bosnos showed Plaintiff a
15 pornographic image against his consent, on Friday May 31, Plaintiff reported the incident to
16 Mr. Crevling, and on the very next Monday, June 3, Mr. Bosnos terminated Plaintiff.

17 52. Plaintiff was supposedly terminated from his position because other
18 salespersons found Plaintiff to be mean in his professional feedback.

19 53. Plaintiff quizzically inquired whether he was being fired because other
20 employees did not like him and asked for further explanation.

21 54. Mr. Bosnos affirmed his position, but only provided one example of a
22 salesperson being displeased with Plaintiff.

23 55. Mr. Bosnos briefly explained a singular incident where Plaintiff had explained
24 to a subordinate that a form needed to sign in a particular place or the processing would not go
25 through and the manager, Plaintiff, would be responsible for the costs.

26 56. This fabricated example was the only specific that Mr. Bosnos supplied for the
27 termination of Plaintiff.

28 57. No one had ever complained to Plaintiff that anyone had disliked him,

1 salesperson or otherwise.

2 58. The very first time Plaintiff learned of this possibility was during his
3 termination.

4 59. Plaintiff was one of the top producing Sales Managers and was under the
5 impression that he had an excellent relationship with the salespeople.

6 60. Plaintiff never had any disciplinary actions taken against him during his
7 employment.

8 61. Furthermore, during Plaintiff's termination, Mr. Bosnos was the only decision
9 maker as Mr. Crevling did not say anything, nor was any other perspective or opinion brought
10 up other than Mr. Bosnos' opinion, despite Plaintiff's complaints to management.

11 62. Upon information and belief, Plaintiff received a call from Mr. Crevling the day
12 after Plaintiff was terminated where Mr. Crevling apologized for the wrongful termination.

13 63. Upon information and belief, Mr. Crevling told Plaintiff that Mr. Bosnos, on or
14 about May 31, 2019, said he was going to immediately fire Plaintiff.

15 64. However, upon information and belief, Mr. Crevling stated that he did not
16 believe that Mr. Bosnos was going to proceed with termination.

17 65. Nevertheless, Plaintiff was terminated as soon as Mr. Bosnos worked at the same
18 day as Plaintiff.

19 66. Upon information and belief, Plaintiff in his nearly three years while working
20 for Defendant never received any training on sexual harassment, discrimination, or retaliation.

21 67. Upon information and belief, Plaintiff nor any of his coworkers, including
22 management, received any training on sexual harassment, discrimination, and retaliation.

23 68. Upon information and belief, Plaintiff was never instructed or provided any
24 information on the policies and procedures for reporting sexual harassment and retaliation.

25 69. Furthermore, upon information and belief, Mr. Bosnos was previously
26 terminated for his mishandling and/or perpetuation of sexual harassment at his previous place
27 of employment.

28 70. Upon information and belief, as with most career fields, a person's reputation

1 follows them from one position to the next, which was the case with Mr. Bosnos.

2 71. Upon information and belief, Mr. Bosnos had been fired from his last position
3 for failing to address sexual harassment.

4 72. Upon information and belief, Mr. Bosnos had been demoted, transferred, and
5 then ultimately terminated from his previous position at a car dealership because of his
6 indifference and/or inability to address sexual harassment under his management.

7 73. Upon information and belief, several other employees not only knew this
8 information about Mr. Bosnos but were also surprised that Mr. Bosnos would be hired because
9 of this very information.

10 74. Upon information and belief, Plaintiff was the only person who had reported Mr.
11 Bosnos for his sexual harassment.

12 **FIRST CAUSE OF ACTION**

13 **(Sex Discrimination (Sexual Harassment) in Violation of Title VII and NRS 613.330)**

14 75. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
15 fully set forth herein.

16 76. During the course of his employment, Plaintiff was subject to an unwelcome
17 vicious, extreme, outrageous, pervasive and unrelenting campaign of sexual harassment and
18 gender discrimination.

19 77. Mr. Bosnos continuously sexually harassed Plaintiff by frequently making
20 sexual comments and sexual gestures aimed at Plaintiff.

21 78. Mr. Bosnos ignored Plaintiff's constant protests and continued to threaten or
22 actually rub his genitals against Plaintiff's desk and personal belongings.

23 79. Mr. Bosnos also made Plaintiff view pornographic images at work against his
24 will.

25 80. Plaintiff reported this ongoing harassment to Defendant, but they did nothing.

26 81. Thereby, Defendant affirmed, ratified and acquiesced in the campaign of sexual
27 harassment and hostile working environment.

28 82. The Defendant's behavior violated 42 U.S.C. § 2000e-2(a) by discriminating

1 against Plaintiff because of his sex, male.

2 83. Due to its illegal actions, Defendant must pay damages in an amount to be
3 determined at trial for back pay, front pay, lost benefits, and compensatory damages for
4 emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

5 84. Because Defendant is guilty of oppression, fraud or malice, express or implied,
6 Defendant must pay Plaintiff an additional amount for the sake of example and by way of
7 punishment.

8 85. Plaintiff has had to obtain the services of an attorney to protect his rights and
9 secure compensation for the damages incurred as a result of these violations of Title VII and
10 therefore, he is entitled to recover reasonable attorney's fees against Defendants pursuant to 42
11 U.S.C. §2000e-5(k).

12 **SECOND CAUSE OF ACTION**

13 **(Retaliation under Federal Law, 42 U.S.C. § 2000e-3 and NRS 613.340)**

14 86. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
15 fully set forth herein.

16 87. In violation of 42 U.S.C § 200e-3, Defendant retaliated against Plaintiff after he
17 complained of acts which he reasonably believed were discriminatory.

18 88. Plaintiff reported the sexual harassment on May 31, 2019, and was fired a few
19 days after, as soon as Mr. Bosnos worked at the same shift as Plaintiff.

20 89. Defendant turned a blind eye to Ms. Bosnos' actions and allowed him to carry
21 out his retaliation against Plaintiff by firing him.

22 90. Defendant knew of Mr. Bosnos' intention to terminate Plaintiff, and yet did
23 nothing to prevent his retaliatory actions.

24 91. Plaintiff had worked for Defendant nearly three years with zero issues and no
25 complaints against him, but he was terminated within two weeks after reporting Mr. Bosnos'
26 sexual harassment.

27 92. Plaintiff was terminated without having any disciplinary actions taken against
28 him and was only provided a fabricated justification.

1 93. The examples above also constitute retaliatory harassment and the creation of
2 an illegally hostile environment.

3 94. Plaintiff may be unaware of additional detrimental acts constituting retaliation
4 in that it harmed him in the workplace.

5 95. The actions and conduct by Defendant constitute illegal retaliation, prohibited
6 by federal statutes.

7 96. Due to its illegal actions, Defendant must pay damages in an amount to be
8 determined at trial for back pay, front pay, lost benefits, and compensatory damages for
9 emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

10 97. Because Defendant is guilty of oppression, fraud or malice, express or implied,
11 Defendant must pay Plaintiff an additional amount for the sake of example and by way of
12 punishment.

13 98. Plaintiff has had to obtain the services of an attorney to protect his rights and
14 secure compensation for the damages incurred when Defendant violated Title VII, and
15 therefore, he is entitled to recover reasonable attorney's fees against Defendant pursuant to Title
16 VII.

17 **THIRD CAUSE OF ACTION**

18 **(Intentional/Negligent Infliction of Emotional Distress)**

19 99. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
20 fully set forth herein.

21 100. Defendant's conduct toward Plaintiff was extreme and outrageous and caused
22 significant emotional harm, headaches, sleeplessness and various physical and mental distress.

23 101. Defendants' conduct was extreme, outrageous, and undertaken with either intent
24 or, reckless disregard for causing Plaintiff emotional distress.

25 102. Defendants had a duty to refrain from engaging in the hostile and retaliatory acts
26 as described above.

27 103. Defendants breached that duty.

28 104. Defendants intentional or negligent conduct was the legal, actual, proximate

1 cause of Plaintiff's extreme and/or severe emotional distress by engaging in the conduct
2 described herein.

3 105. Defendants must pay damages in an amount to be determined at trial but
4 exceeding \$25,000 for emotional pain, suffering, inconvenience, mental anguish and loss of
5 enjoyment of life because they engaged in illegal actions.

6 106. Because Defendants are guilty of oppression, fraud or malice, express or
7 implied, Defendants must pay Plaintiff an additional amount for the sake of example and by
8 way of punishment.

9 107. Plaintiff has had to obtain the services of an attorney to protect his rights and
10 secure compensation for the damages incurred as a result of these violations and therefore, he
11 is entitled to recover reasonable attorney's fees against Defendants.

12 **FOURTH CAUSE OF ACTION**

13 **(Negligent Hiring/Retention)**

14 108. Plaintiffs incorporate all the allegations in the preceding paragraphs as though
15 fully set forth herein.

16 109. Defendant failed to properly train Mr. Bosnos in sexual harassment.

17 110. Defendants knew or should have known of its employee's proclivities for
18 improper, unreasonable, outrageous, harassing and retaliatory actions, particularly Mr. Bosnos'
19 prior termination for alleged failure for handle sexual harassment, such that an exercise of
20 reasonable care would have stopped and or prevented such conduct.

21 111. Defendants' failure to supervise Mr. Bosnos and/or other employees and
22 address this conduct in an appropriate way caused injury to Plaintiffs, including but not limited
23 to, the loss of their livelihood and other employment-related benefits.

24 112. Defendants must pay damages in an amount to be determined at trial, but
25 exceeding \$25,000 for back pay, front pay, lost benefits, and compensatory damages for
26 emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life
27 because of Defendants' illegal actions.

28 113. Because Defendants are guilty of oppression, fraud or malice, express or

1 implied, Defendants must pay Plaintiff an additional amount for the sake of example and by
2 way of punishment.

3 114. Plaintiffs have had to obtain the services of an attorney to protect their rights
4 and secure compensation for the damages incurred as a result of these violations and therefore,
5 they are entitled to recover reasonable attorney's fees against Defendants.

6 **WHEREFORE**, Plaintiff prays this court for:

- 7 a. A jury trial on all appropriate claims;
8 and to enter judgment in favor of the Plaintiff by:
9 b. Awarding Plaintiff an amount sufficient to fully compensate him (including tax
10 consequences) for all economic losses of any kind, and otherwise make him whole
11 in accordance with Nevada law;
12 e. An award of compensatory and punitive damages to be determined at trial;
13 f. An award of attorney's fees and costs; and
14 g. Any other relief the court deems just and proper.

15 Dated this 28th day of December, 2020.

16
17 Respectfully submitted,

18 **HKM EMPLOYMENT ATTORNEYS, LLP**

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